

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
And COMMONWEALTH OF)	<i>Draft 6-10-13</i>
PENNSYLVANIA)	
)	
Plaintiffs,)	
)	Civil Action No. 04- 05696
v.)	
)	
City of Reading, Pennsylvania.)	
)	
_____ Defendant. _____)	

NOTICE OF MODIFICATION OF CONSENT DECREE

Whereas: The United States of America ("United States") acting at the request and on behalf of the United States Environmental Protection Agency ("EPA"), the Commonwealth of Pennsylvania ("Commonwealth"), and the City of Reading ("Reading" or "Defendant"), constituting all of the parties to the Consent Decree in the above-captioned matter (the "Parties"), hereby provide notice to the Court pursuant to paragraph 91 of the Consent Decree in this matter regarding a modification of certain provisions of the Consent Decree. Attached hereto as Exhibit A is a chart summary of the primary extensions and modifications. All other ongoing commitments and requirements of the 2005 Decree remain in full force and effect.

Whereas: The United States filed a complaint against the City of Reading (hereinafter Reading) on December 9, 2004, seeking injunctive relief and civil penalties pursuant to Section 309 of the Clean Water Act ("CWA"), 33 U.S.C. ' 1319 for Reading's alleged violations of the CWA, 33 U.S.C. " 1251-1387.

Whereas: The Commonwealth of Pennsylvania filed as co-plaintiff a motion for intervention and complaint against Reading on December 16, 2004, pursuant to Rule 24 of the

Federal Rules of Civil Procedure, seeking injunctive relief and civil penalties for Defendant's alleged violations of the federal CWA, 33 U.S.C. " 1251-1387 and the Pennsylvania Clean Streams Law, Act of June 22, 1937, P.S. 1987 *as amended*, 35 P.S. " 691-1001 ("the Clean Streams Law")

Whereas: On November 7, 2005, this Court entered the Consent Decree resolving the above-captioned enforcement action brought by the United States and the Commonwealth against Reading.

Whereas: Reading operates a sanitary sewer collection system and wastewater treatment plant that serves the residents of the City of Reading and surrounding municipalities. Those municipalities (not parties to this Decree but hereinafter "Contributing Municipalities") contributing sewage to the Reading sewer collection system and wastewater treatment plant are: Alsace Township, Bern Township, Cumru Township, Kenhorst Borough, Laureldale Borough, Mohnton Borough, Mt. Penn Borough, Muhlenberg Township, Robeson Township, Shillington Borough, Spring Township, and Wyomissing Borough.

Whereas: The Consent Decree (hereinafter CD or Decree) contains Reading's commitments to perform certain tasks and the dates by which these tasks are to be accomplished, including but not limited to:

Construction completion of a substantial rehabilitation of Reading's wastewater treatment plant ("Plant") by October 2012 (CD ¶23);

Rehabilitation of Reading's wastewater collection system by January 2012 (CD ¶28);

Responsible management of the City finances and sewer revenue fund to provide adequate financial resources for the operation, maintenance and capital improvements for the tasks set forth in the Decree (CD ¶ 40).

Whereas: Reading has violated certain terms and dates contained in the Decree.

Whereas: Reading has successfully accomplished many tasks required by the Decree including improvements in the staffing, operation, management, and maintenance of the Plant.

Whereas: The Parties acknowledge Reading's declining fiscal health for the past several years leading to the 2009 declaration by Pennsylvania's Secretary of the Department of Community and Economic Development that Reading is a "Distressed Municipality" pursuant to Pennsylvania's Municipalities Financial Recovery Act, 47 P.L. 246 (1987).

Now therefore, in consideration of the agreement amongst all parties that the Decree be modified, it will be modified as follows:

1. Treatment Plant Alternatives Submission. Paragraph 18 of the Decree requires that Reading submit to Plaintiffs for review and approval a technically sound and economically feasible treatment alternative to meet projected capacity based on influent wastewater characteristics, waste load projections, current permit limits, and future regulatory requirements. Reading submitted Chapters 5 and 6 of its Act 537 Special Study" on August 24, 2012 ("Special Study")) to satisfy this requirement. The United States and PADEP have approved the August 24th Submittal modified only as to the construction completion date of February 28, 2018 for the water treatment plant improvements, as set forth below in paragraph

2. Capital Improvements Plan. Paragraph 19 of the Decree requires the submission of a capital improvements plan and the same has been submitted for review and approval. On April 29, 2013, EPA and PADEP requested additional information for review. Reading committed to provide the requested information on or before June 30, 2013.

3. Contract Awards. On April 22, 2013, the City awarded a \$5.35 million contract to RK&K Engineering to design the rebuild of the Fritz Island waste water treatment plant. As contemplated in paragraph of the Decree.

4. Permit Applications and Design. The date specified in Paragraph 21 of the Decree requiring that Reading shall complete and submit to PADEP the NPDES (Part I) and the Water Quality Management (Part II) Permit applications, as necessary, to implement the approved treatment alternative approved as set forth above in Paragraph 2, is hereby modified to April 30, 2013, for the Part I Permit submission; and September 1, 2014, for the Part II Permit submission. As specified in Paragraph 21 of the Decree, Reading shall also obtain other approvals and/or permits as necessary including but not limited to: NPDES permits; permits for Construction and/or Earthmoving permits pursuant to 25 PA Code Chapter 102; and, if necessary, a permit for water obstruction/wetlands pursuant to 25 PA Code Chapter 105 and/or a permit issued under Section 404 of the Clean Water Act.

5. Permitting. PADEP shall use best efforts to provide a timely review of the submitted permit applications required for the permit issuance with the intention that both Phase I and Phase II permits may be issued within 90 days after submission of administratively and technically complete applications.

6. Construction Completion of the wastewater treatment plant. The date specified in Paragraph 23.b. of the Decree requiring that Defendant complete construction of the upgrade and/or expansion of the Plant at the existing location is hereby modified to **February 28, 2018.**

a. Construction Completion Interim Milestone - Construction Completion of the Secondary Digesters Rehabilitation. By no later than July 31, 2015, Reading shall complete the rehabilitation of the secondary digesters.

7. GIS Mapping of the Sanitary Sewer Collection System. The date specified in Paragraph 25.b. of the Decree for Reading's submission of its certification of the development

and implementation of a functional Geographic Information System (“GIS”) mapping of Reading’s sanitary sewer collection system as described therein is hereby modified to **June 30, 2013.**

8. GIS Mapping of the Storm Water Collection System. The date specified in Paragraph 25.c. of the Decree requiring Reading’s submission of its certification of the completion of the GIS for Reading’s storm water collection system as described therein is hereby modified to **June 30, 2013.**

9. Sanitary Sewer System Evaluation Program. The date specified in Paragraph 26 of the Decree requiring Reading to develop a program of continuing infiltration/inflow (I/I) analysis and sewer system evaluation of its collection system to identify the priority areas of the sanitary sewer system that require repair, replacement and/or other remediation, and as otherwise described therein, is hereby modified to the following schedule:

a. By no later than November 30, 2013, complete hydraulic modeling of the sanitary sewer collection system.

b. By no later than March 31, 2014, complete the I / I evaluation of the sanitary sewer collection system.

c. By no later than June 30, 2014, complete closed circuit television inspections of the sanitary sewer collection system.

d. By no later than December 31, 2014, complete the Sanitary Sewer Evaluation Survey that identifies priority areas of the sanitary sewer system that require repair, replacement, upgrade, and/or other remediation.

10. Rehabilitation Plan. The date specified in Paragraph 27 of the Decree requiring Reading to develop and submit to Plaintiffs for review and approval a “Rehabilitation Plan” to

adequately address those specific priority areas of the sanitary sewer system that require repair, replacement, upgrade and/or other remediation, and as otherwise described therein, is hereby modified to **February 28, 2015**. The Rehabilitation Plan shall contain an implementation schedule. Upon approval Reading shall begin to implement the plan in accordance with the schedule. PADEP and Reading may enter into a separate agreement to memorialize the implementation schedule of the Rehabilitation Plan.

11. Rehabilitation of Priority Areas of Collection System. Reading has identified the highest priority areas of the collection system. In addition to the development and implementation of the Rehabilitation Plan, Reading shall complete construction in accordance with the following schedule:

- a.** By no later than June 30, 2014, complete construction of the 6th and Canal 42" force main.
- b.** By no later than January 31, 2018, complete upgrades to the 6th and Canal Pumping Station.
- c.** By no later than January 31, 2018, complete upgrades to the 19th Ward Pumping Station.
- d.** By no later than January 31, 2018, complete construction of the 19th Ward pump station and force main rehabilitation projects.

12. Requirement for Dedicated Sewer Fund. In furtherance of the purpose of the Decree, the Parties agree that Reading shall maintain a dedicated sewer fund comprised of revenues as described in Paragraph 40 of the Decree from which Reading may not assess and collect for its general revenue funds beyond three (3) million dollars per calendar year unless Reading satisfies the requirements set forth in Paragraph 40 of the Decree.

13. Stipulated Penalties. Pursuant to Section XI of the Decree, Reading will pay stipulated penalties in the amount of

14. Annual Meetings. PA DEP, EPA, DOJ, and Reading shall meet at least annually, on or about August 1 of each year, during the term of this Amendment to review Annual Progress on its implementation.

Jointly submitted this _____ day of June, 2013 by all of the Parties:

FOR THE UNITED STATES
OF AMERICA:

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FOR CITY OF READING:
